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**BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation)
Against:)

ALMA BISHOP, D.P.M.)
Podiatric Medicine License # E-2186)

Respondent.)
_____)


No: 1B-92-21630

DECISION

The attached Stipulation for Surrender of License is hereby adopted by the Board of Podiatric Medicine as its Decision in the above-entitled matter.

This Decision shall become effective on October 13, 1998.

IT IS SO ORDERED October 6, 1998.



JON H. WILLIAMS, D.P.M., President
BOARD OF PODIATRIC MEDICINE

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 VIVIEN HARA HERSH
Supervising Deputy Attorney General
3 RONALD V. THUNEN, JR., State Bar No. 041145
Deputy Attorney General
4 California Department of Justice
50 Fremont Street, Suite 300
5 San Francisco, California 94105-2239
Telephone: (415) 356-6305
6 Facsimile: (415) 356-6257
7 Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation) Case No. 1B-92-21630
Against:)
12) OAH No.
ALMA BISHOP, D.P.M.)
13 1056 Grant Avenue, #2)
San Francisco, California 94133) **STIPULATION FOR**
14) **SURRENDER OF LICENSE**
License No. E2186)
15) DATE: September 11, 1998
TIME: 9:30 a.m.
16 Respondent.) PLACE: OAH, Oakland
17)
18)

19 In the interest of a prompt and speedy settlement of
20 this matter, consistent with the public interest and the
21 responsibility of the Board of Podiatric Medicine, Department of
22 Consumer Affairs ("Board") the parties hereby agree to the
23 following Stipulation for Surrender of License which will be
24 submitted to the Board for its approval and adoption as the final
25 disposition of the Accusation.

26 / / /

27 / / /

PARTIES

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2 1. Complainant James Rathlesberger is the Executive
3 Officer of the Board of Podiatric Medicine of the State of
4 California ("Board") and is represented by Daniel E. Lungren,
5 Attorney General of the State of California, by Ronald V. Thunen,
6 Jr., Deputy Attorney General.

7 2. Alma Bishop ("respondent") is represented in this
8 matter by attorney James Seltzer, whose address is Watergate
9 Towers, 2200 Powell Street, Suite 1035, Emeryville, California
10 94608. The respondent has counseled with her attorney concerning
11 the effect of this stipulation, which respondent has carefully
12 read and fully understands.

13 3. Respondent has received and read the Accusation
14 which is presently on file and pending in Case No. 1B 92-21630
15 before the Board, a copy of which is attached as Exhibit A and
16 incorporated herein by reference.

17 4. Respondent understands the nature of the charges
18 alleged in the Accusation and that, if proven at hearing, such
19 charges and allegations would constitute cause for imposing
20 discipline upon respondent's license issued by the Board.

21 5. Respondent and her counsel are aware of each of
22 respondent's rights, including the right to a hearing on the
23 charges and allegations, the right to confront and cross-examine
24 witnesses who would testify against respondent, the right to
25 testify and present evidence on her own behalf, as well as to the
26 issuance of subpoenas to compel the attendance of witnesses in
27 the production of documents, the right to contest the charges and

1 allegations, and other rights which are accorded respondent
2 pursuant to the California Administrative Procedure Act
3 (Government Code section 11500, et seq.), and other applicable
4 laws, including the right to seek reconsideration, review by the
5 superior court, and appellate review.

6 6. In order to avoid the expense and uncertainty of a
7 hearing, respondent freely and voluntarily waives each and every
8 one of these rights set forth above. While respondent neither
9 admits nor denies any allegation of the said Accusation at this
10 time, respondent agrees that, at a hearing, the complainant could
11 establish a factual basis for the charges in the Accusation.
12 Respondent hereby gives up her right to contest that cause for
13 discipline exists based on those charges and agrees to surrender
14 her license for the Board's formal acceptance. Respondent
15 further agrees that, notwithstanding the fact that she has
16 neither admitted nor denied the allegations of the Accusation,
17 the terms of this stipulation authorize the Board, in the event
18 of any petition for reinstatement ever being filed before the
19 Board by respondent, the Board may deem the charges and
20 allegations in the Accusation to be true and correct, and
21 respondent hereby surrenders all right to present any evidence to
22 the contrary or to litigate the truth of the charges at any such
23 hearing on reinstatement.

24 7. Respondent understands that by signing this
25 stipulation she is enabling the Board to issue its order
26 accepting the surrender of her license without further process.
27 She understands and agrees that Board staff and counsel for

1 complainant may communicate directly with the Board regarding
2 this stipulation, without notice to or participation by the
3 respondent or her counsel. In the event this stipulation is
4 rejected for any reason by the Board, it will be of no force or
5 effect for either party. The Board will not be disqualified from
6 further action in this matter by virtue of its consideration of
7 this stipulation.

8 8. Upon acceptance of this stipulation by the Board,
9 respondent understands that she will no longer be permitted to
10 practice as a doctor of podiatric medicine in California, and
11 also agrees to surrender and cause to be delivered to the Board
12 both her license and the wallet certificate before the effective
13 date of this decision.

14 9. Respondent fully understands and agrees that if
15 she ever files an application for relicensure or reinstatement in
16 the State of California, the Board shall treat it as a petition
17 for reinstatement. Respondent expressly acknowledges that such a
18 petition shall be governed by the provisions of section 2307, and
19 that no such petition may be submitted within three years of the
20 effective date of this decision. Respondent further understands
21 that in the event of any such application for reinstatement, the
22 respondent must comply with all of the laws, regulations and
23 procedures for reinstatement of a revoked license in effect at
24 the time the petition is filed, and all of the charges and
25 allegations contained in Accusation No. 1B 92 21630 will be
26 deemed to be true, correct and admitted by respondent when the
27 Board determines whether to grant or deny the petition.

1 10. In consideration of respondent's offer to
2 surrender her license, the Board agrees to waive its
3 investigative and enforcement costs in this matter, except that,
4 in the event that respondent should petition for reinstatement,
5 costs in the amount of \$1,000, which have been incurred in this
6 matter to date, will be imposed upon the respondent as a
7 condition of reinstatement, if reinstatement is granted. Nothing
8 in this Stipulation binds the Board to reinstate petitioner's
9 license under any circumstances, or limits in any way the
10 conditions which might be imposed upon any such reinstatement.

11 11. To the extent that any portion of this stipulation
12 may be construed as an admission by the respondent, it is made
13 only for the purpose of this proceeding, or any other proceeding
14 in which the Board of Podiatric Medicine or other professional
15 licensing agency is involved, and shall not be admissible in any
16 other criminal or civil proceeding.

17 ACCEPTANCE

18 I, Alma Bishop, have carefully read the above
19 Stipulation and enter it freely and voluntarily with the advice
20 of counsel, and with full knowledge of its force and effect, do
21 hereby surrender my license number E2186 to the Board of
22 Podiatric Medicine for its formal acceptance. By signing this
23 Stipulation to surrender my license, I recognize that upon its
24 formal acceptance by the Board, I will lose all rights and
25 privileges to practice as a doctor of podiatric medicine in the
26 state of California and I will also cause to be delivered to the
27 / / /

1 Board both my license and wallet certificate before the effective
2 date of this decision.

3 DATED: 9/18/98

4

5


ALMA BISHOP, D.P.M.
Respondent

6


7

8 I concur in the Stipulation.

9 DATED: 9/18/98

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JAMES J. SELTZER, ESQ.
Attorney for Respondent

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14 Acceptance of this Stipulation by the Board is
15 recommended by this office.

16 DATED: 22 Sept 1998

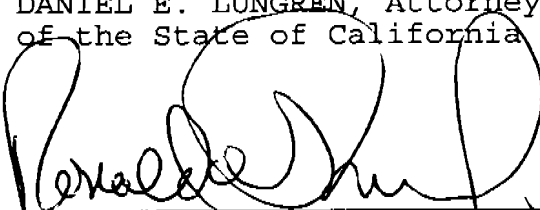
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DANIEL E. LUNGREN, Attorney General
of the State of California

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RONALD V. THUNEN, JR.
Deputy Attorney General

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Attorneys for Complainant

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EXHIBIT A

DANIEL E. LUNGREN, Attorney General
of the State of California
2 VIVIEN HARA HERSH
Supervising Deputy Attorney General
3 RONALD V. THUNEN, JR., State Bar No. 041145
Deputy Attorney General
4 California Department of Justice
50 Fremont Street, Suite 300
5 San Francisco, California 94105-2239
Telephone: (415) 356-6305
6 Facsimile: (415) 356-6257

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 14 1998
BY Theresa Johnson ANALYST

7 Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF PODIATRIC MEDICINE
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation) Case No. 1B-92-21630
Against:)
12) OAH No.
13 **ALMA BISHOP, D.P.M.**)
1056 Grant Avenue, #2)
14 San Francisco, California 94133) **A C C U S A T I O N**
License No. E2186)
15)
16 Respondent.)

17
18 Complainant James Rathlesberger alleges as follows:

19 **COMPLAINANT'S IDENTITY**

20 1. Complainant is the Executive Officer of the Board
21 of Podiatric Medicine ("Board") and makes and files this
22 Accusation and the charges and allegations contained therein
23 solely in his official capacity.

24 **RESPONDENT'S CERTIFICATE STATUS**

25 2. On or about July 15, 1977, the Board issued
26 Podiatric License No. E2186 to respondent Alma R. Bishop. As of
27 March 5, 1998, this license is valid with an expiration date of

1 January 31, 1999. There is no Board record of any prior
2 disciplinary action having been taken against respondent's
3 podiatric license by the State of California.

4 **STATUTES**

5 3. Business and Professions Code section 125.3
6 provides that:

7 "(a) Except as otherwise provided by law, in any
8 order issued in resolution of a disciplinary proceeding
9 before any board within the department or before the
10 Osteopathic Medical Board, the board may request the
11 administrative law judge to direct a licentiate found
12 to have committed a violation or violations of the
13 licensing act to pay a sum not to exceed the reasonable
14 costs of the investigation and enforcement of the case.

15 (b) In the case of a disciplined licentiate that
16 is a corporation or a partnership, the order may be
17 made against the licensed corporate entity or licensed
18 partnership.

19 (c) A certified copy of the actual costs, or a
20 good faith estimate of costs where actual costs are not
21 available, signed by the entity bringing the proceeding
22 or its designated representative shall be prima facie
23 evidence of reasonable costs of investigation and
24 prosecution of the case. The costs shall include the
25 amount of investigative and enforcement costs up to the
26 date of the hearing, including, but not limited to,
27 charges imposed by the Attorney General.

(d) The administrative law judge shall make a
proposed finding of the amount of reasonable costs of
investigation and prosecution of the case when
requested pursuant to subdivision (a). The finding of
the administrative law judge with regard to costs shall
not be reviewable by the board to increase the cost
award. The board may reduce or eliminate the cost
award, or remand to the administrative law judge where
the proposed decision fails to make a finding on costs
requested pursuant to subdivision (a).

(e) Where an order for recovery of costs is made
and timely payment is not made as directed in the
board's decision, the board may enforce the order for
repayment in any appropriate court. This right of
enforcement shall be in addition to any other rights
the board may have as to any licentiate to pay costs.

1 (f) In any action for recovery of costs, proof of
2 the board's decision shall be conclusive proof of the
3 validity of the order of payment and the terms for
4 payment.

5 (g) (1) Except as provided in paragraph (2), the
6 board shall not renew or reinstate the license of any
7 licentiate who has failed to pay all of the costs
8 ordered under this section.

9 (2) Notwithstanding paragraph (1), the board may,
10 in its discretion, conditionally renew or reinstate for
11 a maximum of one year the license of any licentiate who
12 demonstrates financial hardship and who enters into a
13 formal agreement with the board to reimburse the board
14 within that one-year period for the unpaid costs.

15 (h) All costs recovered under this section shall
16 be considered a reimbursement for costs incurred and
17 shall be deposited in the fund of the board recovering
18 the costs to be available upon appropriation by the
19 Legislature.

20 (i) Nothing in this section shall preclude a
21 board from including the recovery of the costs of
22 investigation and enforcement of a case in any
23 stipulated settlement.

24 (j) This section does not apply to any board if a
25 specific statutory provision in that board's licensing
26 act provides for recovery of costs in an administrative
27 disciplinary proceeding."

4. Business and Professions Code section 725 provides
that:

"Repeated acts of clearly excessive prescribing or
administering of drugs or treatment, repeated acts of
clearly excessive use of diagnostic procedures, or repeated
acts of clearly excessive use of diagnostic or treatment
facilities as determined by the standard of the community of
licensees is unprofessional conduct for a physician and
surgeon, dentist, podiatrist psychologist, physical
therapist, chiropractor, or optometrist.

Any person who engages in repeated acts of clearly
excessive prescribing or administering of drugs or treatment
is guilty of a misdemeanor and shall be punished by a fine
of not less than one hundred dollars (\$100) nor more than
six hundred dollars (\$600), or by imprisonment for a term of
not less than 60 days nor more than 180 days, or by both the
fine and imprisonment."

1 following:

2 (a) Records should be complete and legible.

3 (b) Documentation of each patient encounter
4 should include: the date; the reason for the
5 encounter; appropriate history and physical
6 examination; review of laboratory, X-ray, and other
7 diagnostic procedures or testing, as appropriate;
8 assessment; and plan for care.

9 (c) The reasons for and the results of X-rays,
10 laboratory tests, and other diagnostic procedures
11 should be documented and included.

12 (d) Relevant health risk factors should be
13 identified.

14 (e) The patient's progress, including response to
15 treatment, change in treatment, change in diagnosis,
16 and patient non-compliance, should be documented.

17 (f) The written plan for care should include:
18 treatment and medications, specifying frequency and
19 dosage, any referrals or consultations; patient
20 education, if any; and documentation of specific
21 instructions for follow-up.

22 B. Treatment of Patients With Peripheral Vascular Disease

23 9. Prior to performing elective surgery, the standard
24 of care for a doctor of podiatric medicine who suspects the
25 presence of peripheral vascular disease includes:

26 (a) Careful measurement and recording of pulses
27 palpable in the lower extremities;

(b) If significant deficiencies in circulation are indicated by such measurement, further studies using more discriminating equipment may be indicated.

(c) If warranted, it is appropriate to seek a consultation with a vascular surgeon.

This measurement is required prior to performance of elective surgery on any part of the foot or ankle in such cases because compromised circulation can cause significant post-operative complications which may, in some cases, lead to loss of the affected digit or joint.

C. Diagnosis and Treatment of Hammertoes

10. The standard of podiatric care in diagnosis of contractures of digits includes evaluation and recording of the degree of flexibility present. This is significant because it will suggest appropriate treatment and will frequently predict whether elective surgery can produce a successful result. The standard of care also requires an attempt at determination of the length of time the deformity has existed, as long-standing conditions of this type are often accompanied by other physiological changes over time which reduce the likelihood of a successful surgical correction.

11. Metatarsal phalangeal joint capsulotomies are not intended for reduction of hammertoe deformities as hammertoe deformities usually include a flexion contracture of the interphalangeal joints. A metatarsal phalangeal joint capsulotomy will reduce the contracture of the more proximal joint, but will not relieve the deformity of the digit

intrinsically. This is well-documented in the biomechanical literature as the hammertoe deformity is ultimately a result of the imbalance of the intrinsic musculature in relation to the extrinsic musculature. The inability of the intrinsic musculature to stabilize the metatarsal phalangeal joint and then overpowering of the long flexor and extensor give rise to the hammertoe deformity. By merely relieving the long extensor or long flexor tendons of their pull on the digit will not reduce a hammertoe deformity, especially if it is semirigid to rigid in nature.

12. As a general rule, metatarsal phalangeal joint capsulotomies are indicated only where pre-operative X-rays demonstrate evidence of joint contracture or other compromise of joint space. It is a departure from the standard of care to perform a metatarsal phalangeal joint capsulotomy without a prior X-ray of the joint, and it is an extreme departure from the standard of care where a pre-operative X-ray demonstrates no reason for the surgery and the procedure is performed in spite of this.

D. Range of Motion Studies

13. The purpose of a range of motion study is to assist in the design and fabrication of prescription orthotics or prostheses. As noted in the section on patient records standard of care above, the standard is to document the justification for such a study. The performance of range of motion studies where orthotics or prostheses are not contemplated is a departure from the standard of care; the performance of multiple studies at

1 intervals of a few weeks or months without any justification or
2 discussion in the patient's record is an extreme departure from
3 the podiatric standard of care.

4 **E. Ultrasound**

5 14. The use of ultrasound is indicated in cases of
6 inflammation, post-surgical or post-traumatic. As noted in the
7 record keeping standard above, the reason for such procedure
8 should be documented. Performance of ultrasound in cases where
9 it is not likely to benefit the patient constitutes a departure
10 from the standard of care unless otherwise justified.

11 **F. Metatarsal Phalangeal Joint Capsulotomies**

12 15. The standard of care for post-operative care
13 following performance of a metatarsal phalangeal joint
14 capsulotomy requires leaving sutures in place for a minimum of
15 ten days in healthy adult patients for the skin to acquire
16 sufficient tensile strength. In addition, the patient should
17 wear an immobilizing boot or shoe for a minimum of 30 days in
18 order to assure satisfactory realignment. Further, the patient
19 should not be discharged following such surgery for a minimum of
20 60 days to assure the result.

21 **G. Treatment of Onychia, Abscess or Ulcer**

22 16. The standard of care for treatment of onychia,
23 abscess, or ulcer requires sampling for culturing and sensitivity
24 testing. further, history taking and examination should
25 ascertain the probable etiology of an ulcer or abscess.

26 / / /

27 / / /

1 CHARGES AND ALLEGATIONS

2 Patient Q.Y.W.

3 17. Respondent first saw this patient on July 6, 1993,
4 when the patient presented with a complaint of right foot pain
5 with tingling, neuroma-like pain. Respondent diagnosed the
6 patient as having an abscess of the right first fibular.
7 Respondent treated this abscess with a trigger point injection of
8 celestone, an anti-inflammatory agent. In addition, respondent
9 applied ultrasound, and strapping.

10 18. Respondent also treated this patient on July 20,
11 1993 for a painful ingrown toenail with occasional pus exudate.
12 Treatment consisted of incision and drainage. In addition,
13 respondent performed ultrasound and bilateral strapping.

14 19. The standard of care when an abscess of the right
15 first fibular is diagnosed includes the taking of a culture
16 sample and sensitivity testing. Ultrasound and strapping are not
17 appropriate treatments for an abscess and will not resolve the
18 problem. When an abscess is noted in an elderly patient, the
19 standard of care requires a doctor of podiatric medicine to
20 ascertain the patient's peripheral vascular status, an action
21 which respondent failed to undertake.

22 20. Similarly, when an ingrown toenail causes
23 occasional pus exudate in an elderly patient, the standard of
24 care includes culture and sensitivity and an evaluation of the
25 patient's peripheral vascular status in order to ascertain the
26 risk that any infection might pose to the patient's prospects for
27 recovery. Neither ultrasound nor strapping are appropriate

1 treatments for an ingrown toenail.

2 21. Each of the above-noted departures from the
3 standard of care constitutes negligence in the practice of
4 podiatric medicine. Taken as a whole, respondent's treatment of
5 this patient was grossly negligent.

6 **First Cause for Disciplinary Action**

7 22. Respondent's failures to take a culture sample of
8 patient Q.Y.W. and test the sample for sensitivity constitute
9 unprofessional conduct and cause for disciplinary action pursuant
10 to Business and Professions Code section 2234(b), (c), or (d).

11 **Second Cause for Disciplinary Action**

12 23. Respondent's use of ultrasound and strapping for
13 patient Q.Y.W. constitutes unprofessional conduct and cause for
14 disciplinary action pursuant to Business and Professions Code
15 section 2234(b), (c), or (d).

16 **Third Cause for Disciplinary Action**

17 24. Respondent's failure to ascertain patient Q.Y.W.'s
18 peripheral vascular status constitutes unprofessional conduct and
19 cause for disciplinary action pursuant to Business and
20 Professions Code section 2234(b), (c), or (d).

21 **Fourth Cause for Disciplinary Action**

22 25. Respondent's use of ultrasound and strapping for
23 patient Q.Y.W. constitutes unprofessional conduct and cause for
24 disciplinary action pursuant to Business and Professions Code
25 section 725 (excessive treatment).

26 **Patient L.Y.L.**

27 26. Respondent treated this patient on July 6, 1993

1 for painful long thick nails. Treatment on this occasion
2 included a posterior tibial nerve block using 1 cc of Xylocaine.
3 Such a procedure is not within the standard of care for treatment
4 of painful long thick nails. Respondent's records fail to
5 indicate any symptom or condition for which such treatment would
6 be appropriate and fail to indicate that any examination or other
7 diagnostic procedure was performed which might disclose a
8 condition which would warrant such treatment.

9 27. Respondent's records of treatment of this patient
10 over the period from June 22, 1993 through December 20, 1994 are
11 deviate from the standard of care in the following substantial
12 respects:

13 (a) June 22, 1993: inadequate history (record of
14 continued post-operative pain -- no indication as to
15 nature of procedure); inadequate diagnosis (record of
16 bilateral taping -- no indication of symptom or
17 diagnosis which would warrant taping).

18 (b) July 6, 1993: no diagnosis. No history or
19 physical examination noted.

20 (c) July 20, 1993: inadequate history (hematoma
21 drained -- no history of cause of hematoma). No
22 documentation of peripheral vascular status or other
23 systemic risks. No indication that any follow-up visit
24 was suggested after drainage of hematoma.

25 (d) December 20, 1994: no record of vascular
26 status. No indication why range of motion study was
27 performed. No indication why Unna boot was required.

1 Inadequate history. Inadequate indication of physical
2 findings.

3 28. On December 20, 1994, respondent noted the
4 patient's chief complaint was acute bilateral foot and ankle pain
5 and bilateral midfoot chronic hammertoe pain. Respondent's
6 application of an Unna boot is not responsive to either complaint
7 and does not appear to have been medically indicated. Similarly,
8 respondent's decision to treat the patient with ultrasound does
9 not appear responsive to the patient's complaints or respondent's
10 diagnosis.

11 **Fifth Cause for Disciplinary Action**

12 29. Respondent's grossly negligent record-keeping as
13 outlined above constitutes unprofessional conduct and cause for
14 disciplinary action pursuant to Business and Professions Code
15 section 2234(b), (c), and d).

16 **Sixth Cause for Disciplinary Action**

17 30. Respondent's use of ultrasound, posterial tibial
18 nerve block, and Unna boot constitutes unprofessional conduct and
19 cause for disciplinary action pursuant to Business and
20 Professions Code section 725.

21 **Patient S.T.**

22 31. On March 8, 1994, respondent diagnosed this 83-
23 year-old patient as suffering from ASO (arteriosclerosis
24 obliterans), "intermittent claudication, onychia right first, and
25 contracture with hammertoes, multiple semi-flex." Respondent
26 treated the patient by: (1) Injecting the right ankle with 0.5
27 cc of Xylocaine; (2) Incising and draining the onychia of the

1 right first fibular with 1 cc of Xylocaine; (3) Strapping the
2 left foot; (4) Performing ultrasound treatments on the left foot;
3 (5) Providing instructions for soaking the foot; (6) Dispersing
4 medical supplies for home care of the foot.

5 32. Because the patient was diagnosed with
6 arteriosclerosis obliterans, it was a departure from the standard
7 of practice to undertake a surgical procedure (incision of the
8 onychia) without further investigation and documentation of the
9 patient's vascular status.

10 33. The ankle injection was not medically indicated
11 for any of the diagnosed conditions noted by respondent and
12 performance of such is therefore either negligent or incompetent.

13 34. Additionally, neither tape strapping nor
14 ultrasound are medically indicated for any diagnosis noted.
15 Consequently, performance of this treatment was either negligent
16 or incompetent.

17 35. On March 22, 1994 respondent determined that the
18 onychia was resolved, stated that intermittent claudication was
19 still present, as well as contracture with hammertoes, multiple,
20 and added diagnosis of degenerative arthritis and ankle bursitis.
21 Respondent treated the patient with:

- 22 (a) A range of motion evaluation
- 23 (b) A posterior tibial nerve block (1 cc Xylocaine)
- 24 (c) Bilateral ultrasound
- 25 (d) Bilateral strapping

26 36. A range of motion evaluation is not indicated for
27 any diagnosis or complaint noted for this patient. The posterior

1 tibial nerve block is not indicated for treatment of any
2 complaint or diagnosis noted. Strapping is not indicated for any
3 complaint or diagnosis noted.

4 37. On June 14, 1994 respondent performed
5 capsulotomies on the left second and third metatarsal-phalangeal
6 joints. Notwithstanding the fact that respondent had repeatedly
7 noted compromised peripheral circulation in this patient
8 (arteriosclerosis obliterans, intermittent claudication), this
9 elective foot surgery was performed without benefit of a vascular
10 study. This is an extreme departure from the standard of care.

11 38. Following surgery on June 14, the sutures were
12 removed on June 21, at which time X-rays were taken. Thereafter
13 (even though the June 21 X-rays show no contracture of the
14 metatarsal phalangeal joints), a further capsulotomy was
15 performed by respondent on November 1, 1994, this time involving
16 the left 5 metatarsal phalangeal joint. Thereafter, sutures were
17 removed two days later. Removal of sutures so soon after surgery
18 was grossly negligent.

19 39. Taken as a whole, respondent's treatment of this
20 patient between March and November 1994 inclusive, constitutes
21 either gross negligence or incompetence within the meaning of
22 section 2234(b) and (d). Moreover, the performance of treatment
23 which was not medically indicated constitutes repeated acts of
24 clearly excessive treatment within the meaning of section 725.

25 40. Additionally, neither tape strapping nor
26 ultrasound are medically indicated for any diagnosis noted.
27 Consequently, performance of this treatment was either negligent

1 or incompetent within the meaning of section 2234.

2 Seventh Cause for Disciplinary Action

3 41. Respondent's failure to investigate and document
4 the patient's vascular status constitutes unprofessional conduct
5 and cause for disciplinary action pursuant to Business and
6 Professions Code section 2234(b), (c) or (d).

7 Eighth Cause for Disciplinary Action

8 42. Respondent's use of the ankle injection,
9 strapping, and ultrasound constitutes unprofessional conduct and
10 cause for disciplinary action pursuant to Business and
11 Professions Code section 725.

12 Ninth Cause for Disciplinary Action

13 43. Respondent's use of inappropriate procedures which
14 were not medically indicated as set forth above constitutes
15 unprofessional conduct and cause for disciplinary action pursuant
16 to Business and Professions Code section 2234(b), (c) or (d).

17 Patient W.M.

18 44. Respondent first saw patient W.M. on March 23,
19 1994 for severe pain when standing and for cold feet when
20 sitting. "Right side pain onset some time ago, progressively
21 worse from hip to foot, right fifth pain." Respondent made a
22 diagnosis of right side sciatica, abnormal pronation with
23 contractures, peripheral vascular disease, and tailor's bunion
24 (which foot not noted). Respondent treated this patient with an
25 intramuscular injection of vitamin B-12, even though this is not
26 indicated and is a departure from the standard of care in
27 treating any or all of the above diagnoses. No vascular

1 examination was performed; failure to do so when a diagnosis of
2 peripheral vascular disease is made is a departure from the
3 standard of care.

4 45. The patient was again seen by respondent on April
5 6, 1994. Respondent diagnosed sciatica, abnormal pronation,
6 hammertoes, and peripheral neuropathy. Respondent administered
7 an alleged posterior tibial nerve block by means of an injection
8 of 1 cc of Xylocaine. Respondent administered ultrasound.
9 Respondent's treatment of the patient on this occasion departed
10 from the standard of care in the following respects:

11 (a) A one cc injection of Xylocaine is insufficient to
12 produce an effective posterior tibial nerve block.

13 (b) No neurologic examination was performed to
14 document peripheral neuropathy.

15 (c) Ultrasound is not indicated for any condition
16 diagnosed.

17 46. The patient returned on June 1, 1994. At that
18 time, respondent performed a range of motion study for no
19 apparent reason. Respondent again made a diagnosis of peripheral
20 neuritis without any neurological evaluation or consultation with
21 a physician. Respondent also diagnosed bursitis (location not
22 specified) and bilateral hammertoes and contractures. Respondent
23 administered a trigger point injection in the right lateral
24 dorsal foot with 0.5 cc celestone 1:4. This treatment cannot be
25 supported because of the lack of an adequate workup to support
26 the diagnosis of peripheral neuropathy.

27 / / /

1 Tenth Cause for Disciplinary Action

2 47. Respondent's departures from the standard of care,
3 including the administration of unnecessary and/or ineffective
4 injections, performance of unnecessary procedures such as range
5 of motion study, use of ultrasound, and failure to do adequate
6 vascular and neurological status constitute repeated negligent
7 acts and cause for discipline pursuant to section 2234(c); the
8 overall care given this patient is gross negligence within the
9 meaning of section 2234(b).

10 Patient Y.K.C.

11 48. Respondent treated this patient from June 21, 1994
12 to July 21, 1994. On June 21, the patient's presenting complaint
13 was right lower extremity pain when standing, occasional left
14 foot and ankle pain with tightness and pulling. The patient
15 provided history of a calcaneal spur in 1991. Respondent made a
16 diagnosis of degenerative arthritis, bilateral hammertoes (right
17 greater than left), abnormal pronation, and sciatica. Respondent
18 noted reduced range of motion due to hammertoe contractures, but
19 did not describe the resultant flexibility, a departure from the
20 standard of care. X-rays taken on this date do not show any
21 degenerative joint changes, apparently contradicting respondent's
22 diagnosis of degenerative arthritis. No palpable spurs are noted
23 on clinical examination. Peripheral vascular status was not
24 ascertained or recorded.

25 49. Respondent performed a right capsulotomy of the
26 second metatarsal phalangeal joint, a right open flexor tenotomy
27 of the third interphalangeal joint and the fourth interphalangeal

1 joint on July 12, 1994. The capsulotomy was neither necessary
2 nor within the standard of care, as the X-ray of June 21 shows
3 that the joint space was clearly visible. There is no evidence
4 of contracture and overlapping of the proximal phalangeal base.
5 The performance of totally unnecessary surgery is an extreme
6 departure from the standard of care. Moreover, performance of
7 any elective surgery on the extremities of this elderly patient
8 without evaluation and documentation of vascular status is a
9 further significant departure from the standard of care.

10 50. Following surgery on July 12, respondent removed
11 the sutures from this patient on July 14, and discharged the
12 patient on July 21. Respondent's post-operative care of this
13 patient constitutes an extreme departure from the standard of
14 care.

15 **Eleventh Cause for Disciplinary Action**

16 51. Respondent's performance of surgery on July 12
17 constitutes clearly excessive treatment within the meaning of
18 section 725.

19 **Twelfth Cause for Disciplinary Action**

20 52. Respondent's performance of unwarranted surgery on
21 July 12 constitutes gross negligence within the meaning of
22 section 2234(b).

23 **Thirteenth Cause for Disciplinary Action**

24 53. Respondent's performance of elective surgery
25 without first ascertaining peripheral vascular status in an
26 elderly patient was negligent, as was the removal of sutures two
27 days after surgery, as was also the discharge of the patient only

1 nine days after this surgery, as was also respondent's failure to
2 use an immobilization boot for at least 30 days after surgery.
3 Collectively, these acts and omissions constitute either repeated
4 negligent acts within the meaning of section 2234(c) or
5 incompetence (section 2234(d)).

6 **Fourteenth Cause for Disciplinary Action**

7 54. Respondent's overall care of this patient
8 constitutes gross negligence (section 2234(b)).

9 **Patient T.K.L.**

10 55. Respondent treated this patient from March 8, 1994
11 through December 1, 1994. Respondent's initial diagnosis was
12 degenerative arthritis, peripheral vascular disease, bilateral
13 contracture with keratosis and hammertoes, eczema, dermatitis and
14 ulcer, onychomycosis and verruca. Respondent did not investigate
15 or record the patient's past medical history, and did not examine
16 or document the vascular status of the patient. Respondent did
17 not investigate the etiology of the ulcer, nor document the depth
18 of the ulcer or whether or not it was infected.

19 56. On March 22, 1994, respondent performed incision
20 and drainage of the ulceration. However, respondent failed to
21 take a culture or to perform any workup as to either the vascular
22 or neurologic status of the patient. Respondent's failure to
23 make any attempt to ascertain the etiology of the ulcer, coupled
24 with his failure to workup vascular and neurologic status,
25 constitutes an extreme departure from the standard of care
26 concerning the management of foot ulcerations.

27 / / /

1 57. On September 22, 1994, respondent performed a
2 right capsulotomy of the second and third metatarsal phalangeal
3 joint and a right open flexor tenotomy of the fourth digit
4 interphalangeal joint. X-rays of this patient do not support the
5 performance of this surgery, as joint space is clearly evident on
6 the second and third metatarsal phalangeal joints on AP views of
7 the right foot. Performance of unjustified and unnecessary
8 surgery constitutes an extreme departure from the standard of
9 care. Further, the performance of any elective surgery in a
10 patient diagnosed with peripheral vascular disease without a
11 prior vascular workup constitutes an extreme departure from the
12 standard of care.

13 58. The patient returned to respondent on September
14 27, 1994, for a post-operative follow-up. Sutures were removed
15 and the patient was told that he could return to a normal shoe.
16 This early discharge and lack of adequate follow-up constitutes
17 an extreme departure from the standard of podiatric care.

18 59. On December 1, 1994, respondent performed a
19 capsulotomy of the fifth metatarsal phalangeal joint on the right
20 and an open flexor tenotomy of the third interphalangeal joint on
21 the left, together with a right matrixectomy of the third digit
22 tibial border. The patient was seen one week later on December
23 8, 1994 for suture removal and follow-up, and was discharged on
24 December 15, 1994. Respondent's post-operative care of this
25 patient constitutes an extreme departure from the standard of
26 care. Moreover, the March 1994
27 X-rays did not support the need for a capsulotomy of the right

1 fifth metatarsal phalangeal joint, and respondent took no new X-
2 rays between March and December. Nothing in the patient's
3 records provides any justification or necessity for the December
4 1st capsulotomy. Thus, the performance of this surgery appears
5 to have been without justification and constitutes an extreme
6 departure from the standard of care.

7 **Fifteenth Cause for Disciplinary Action**

8 60. Both the capsulotomies of September 22, 1994 and
9 December 1, 1994 are unjustified, and consequently constitute
10 gross negligence pursuant to section 2234(b).

11 **Sixteenth Cause for Disciplinary Action**

12 61. Respondent's post-operative care of this patient
13 following capsulotomies on September 22, 1994 and December 1,
14 1994 constitute gross negligence within the meaning of section
15 2234(b).

16 **Seventeenth Cause for Disciplinary Action**

17 62. Respondent's overall treatment of the patient's
18 foot ulcer on March 22 and April 7, 1994 constitutes an extreme
19 departure from the standard of care and cause for disciplinary
20 action pursuant to Business and Professions Code section 2234(b).

21 **Eighteenth Cause for Disciplinary Action**

22 63. Respondent's performance of elective surgery on a
23 patient diagnosed with peripheral vascular disease without an
24 appropriate preoperative vascular workup constitutes an extreme
25 departure from the standard of care and cause for disciplinary
26 action pursuant to Business and Professions Code section 2234(b).

27 / / /

1 Nineteenth Cause for Disciplinary Action

2 64. Respondent's overall care and treatment of this
3 patient constitutes cause for disciplinary action pursuant to
4 Business and Professions Code section 2234(b), (c), or (d).

5 Patient Y.N.Z.

6 65. Respondent treated this 73-year-old patient from
7 July 7, 1994 through August 25, 1994. On July 7, 1994,
8 respondent made a diagnosis of degenerative arthritis,
9 onychomycosis, bilateral hammertoes (right greater than left),
10 and plantarflexed metatarsals. Respondent did not do any review
11 or workup of either the vascular or neurologic status of the
12 patient. X-rays taken on July 7, 1994 do not reveal any evidence
13 of degenerative joint disease or contractures of the metatarsal
14 phalangeal joints. In all cases, joint spaces are evident at the
15 metatarsal phalangeal joints. The X-rays do reveal contracture
16 of the interphalangeal joints of the fourth and fifth digits of
17 both feet. These appear to be very well adapted as the joint
18 spaces are not evident.

19 66. On July 28, 1994, respondent performed a
20 capsulotomy on the right third metatarsal phalangeal joint and
21 flexor tenotomies of the right fourth and fifth interphalangeal
22 joints. As noted above, X-rays taken on July 7th do not support
23 the need for this surgical procedure, and there is no record of
24 any clinical examination which would support surgical
25 intervention. The performance of unjustified and unnecessary
26 surgery constitutes an extreme departure from the standard of
27 care for a doctor of podiatric medicine.

1 67. Following surgery on July 28, 1994, sutures were
2 removed four days later. Performance of elective foot surgery on
3 a patient of this age without appropriate vascular or
4 neurological workup also constitutes a significant departure from
5 the standard of care.

6 68. On August 25, 1994, respondent performed an
7 incision and drainage of a hematoma on the patient's left foot.
8 The formation of this hematoma appears to be unrelated to the
9 prior surgery, which was performed on the right foot. Respondent
10 did not undertake any investigation to determine the history,
11 etiology, or age of the hematoma. Further, respondent failed to
12 record any information in the patient's chart with respect to the
13 size, extent, and tissue plane in which the hematoma was located.
14 It is a significant departure from the standard of care to fail
15 to ascertain the history and etiology of an otherwise unexplained
16 hematoma.

17 **Twentieth Cause for Disciplinary Action**

18 69. Respondent's performance of unnecessary and
19 unjustified surgery on July 28, 1994 constitutes gross negligence
20 within the meaning of Business and Professions Code section
21 2234(b).

22 **Twenty-First Cause for Disciplinary Action**

23 70. Respondent's overall care of this patient
24 constitutes cause for disciplinary action pursuant to Business
25 and Professions Code section 2234(b), (c), or (d).

26 **Patient Y.C.C.**

27 71. Respondent treated this 79-year-old female patient

1 from June 14, 1994 through July 26, 1994. On June 14th, the
2 patient complained of tight pulling pain, no energy in her lower
3 extremities, and pain in her right first toe. Respondent made a
4 diagnosis of degenerative arthritis, bilateral helix valgus with
5 bunion (left greater than right), peripheral vascular disease,
6 bilateral hammertoes (second greater than others), bilateral
7 onychomycosis (left first greater than others), and hammertoes
8 secondary to a contractured joint. Despite the respondent's
9 diagnosis of peripheral vascular disease, respondent performed no
10 vascular workup on June 14th or on any other occasion prior to or
11 following surgery. X-rays were taken on June 14th.

12 72. On July 5, 1994, respondent performed
13 capsulotomies of both the left second and third metatarsal
14 phalangeal joint, even though the X-rays taken on June 14th do
15 not support the necessity of surgery.

16 **Twenty-Second Cause for Disciplinary Action**

17 73. Respondent's performance of unnecessary and
18 unjustified surgery on July 5, 1994 constitutes gross negligence
19 within the meaning of Business and Professions Code section
20 2234(b).

21 **Twenty-Third Cause for Disciplinary Action**

22 74. Respondent's overall care of this patient
23 constitutes cause for disciplinary action pursuant to Business
24 and Professions Code section 2234(b), (c), or (d).

25 **PRAYER**

26 WHEREFORE, complainant requests that the Board of
27 Podiatric Medicine hold a hearing on the matters, charges and

1 allegations alleged herein and thereafter issue an order:

2 1. Revoking or suspending Podiatric License No. E2186
3 held by respondent Alma R. Bishop, D.P.M.;


4 2. Granting the Board of Podiatric Medicine its costs
5 of investigation and prosecution of this case pursuant to
6 Business and Professions Code section 125.3;

7 3. Ordering respondent to pay to the Board of
8 Podiatric Medicine its costs of probation monitoring;

9 4. Prohibiting respondent from supervising a podiatric
10 assistant, and;

11 5. Taking such other action as appropriate to protect
12 the public health, safety and welfare.

13 DATED: May 14, 1998

14
15 
16 JAMES RATHLESBERGER
17 Executive Officer
18 Board of Podiatric Medicine
19 State of California

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COMPLAINANT